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REPORT
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WAR RISK INSURANCE

MARCH 19 (legislative day, FEBRUARY 18), 1985.—Ordered to be printed

Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 413]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 413) to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF BILL

As reported, S. 413 would extend until June 30, 1990 the authority of the Secretary of Transportation to issue war risk insurance under title XII of the Merchant Marine Act, 1936. This authority expired on September 30, 1984.

Title XII was enacted at the outbreak of the Korean war in 1950. It was temporary legislation that expired 5 years later. Since then, it has been extended several times, normally for 5-year periods.

BACKGROUND AND NEED

Title XII authorizes the Secretary of Transportation, with the approval of the President, to provide war risk insurance covering ships, cargoes, the lives and personal effects of the crew, and other liabilities resulting from ownership and operation of the vessels when commercial insurance cannot be obtained on reasonable terms and conditions.

Such a situation may be triggered when commercial underwriters drastically increase war risk hull insurance rates because they consider conditions existing at certain ports unreasonably hazardous to vessel safety. This, in turn, could persuade vessel owners to

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avoid trading in these areas to the detriment of U.S. ocean commerce.

Commercial insurance companies, both in the United States and abroad, are simply unable to underwrite the potential massive risk to which merchant shipping may be exposed in the event of a major armed conflict. Therefore, all commercial war risk insurance policies presently contain a termination clause, which automatically becomes effective upon hostile detonation of a nuclear device of war or upon the outbreak of war (whether there is a declaration of war or not) between any of the following countries: The United States of America, the United Kingdom (or any other member of the British Commonwealth), France, the Union of Soviet Socialist Republics, and the Peoples Republic of China.

The purpose of title XII, therefore, is to maintain the flow of U.S. waterborne commerce, including the maintenance of essential transportation services. Unless insurance is available against all risks, including war risks, commercial operators are not likely to send their ships into situations where a risk of war damage exists.

The war risk insurance program in effect creates a mutual pool to spread this risk among a large number of vessel operators trading worldwide. Our Government operates as the administrator of this pool. For modest fees it issues war risk insurance binders to U.S. and selected foreign-flag operators which become effective immediately upon the termination of commercial insurance. During the first 30 days binders are in effect, losses are paid by the Government. However, at the end of 30 days, premiums are fixed retroactively on the basis of losses actually incurred and those anticipated. During the entire period title XII war risk insurance is effective, the Government, as the program's administrator, is charged with regularly adjusting the premiums so as to repay all losses. Thus, the program should cost the Government nothing. In fact, during World War II, when a similar program was in effect, the Government collected an excess of insurance premiums and other credits over amounts expended in settlement of losses of $127,285,014.

Section 1203(a) of the 1936 act authorizes the Secretary to provide insurance not only to American vessels, but also to foreign-flag vessels owned by citizens of the United States or engaged in transportation in the waterborne commerce of the United States or in such other transportation by water or such other services as may be deemed by the Secretary to be in the interest of the national defense or the national economy of the United States when so engaged.

Public Law 94-523, enacted in 1975, added the requirement that "the characteristics, the employment and the general management of the vessel by the owner or charterer" of foreign-flag tonnage would have to be evaluated before war risk insurance could be extended to those ships. This provision was part of a proposal which had been recommended by the Maritime Administration (MarAd) in order not only to check closely those qualifying requirements, but also to withdraw the blanket finding that all effective U.S.-controlled vessels of Panamanian, Honduran, and Liberian registry were automatically eligible for war risk insurance. Thus, only those foreign-flag vessels deemed most suitable to augment the

U.S.-flag merchant fleet in event of a national emergency are selected by MarAd on a case-by-case basis for inclusion in the program.

Legislative History

S. 413 was introduced on February 6, 1985, and it was referred to the Committee on Commerce, Science, and Transportation. The Commerce Committee ordered the bill reported without a hearing on March 8, 1985.

During the 98th Congress, the Commerce Committee reported a similar war risk insurance reauthorization bill (H.R. 5505), but the Senate failed to act before adjourning sine die on October 17, 1984.

Estimated Costs

In accordance with paragraph 11(a) of the rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 14, 1985.

Hon. John C. Danforth,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 413, a bill to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, March 8, 1985. We expect that enactment of this bill would result in net additional outlays to the federal government of approximately $0.1 million in 1985 and $0.2 million per year from 1986 through 1990. This bill would not affect the budgets of state and local governments.

S. 413 extends through 1990 the authority of the Secretary of Transportation to insure American vessels and cargos shipped on such vessels against loss or damage from marine war risks. The previous authorization expired September 30, 1984. Commercial insurance policies stipulate that coverage expires immediately if an outbreak of war occurs, or a nuclear weapon is detonated. Federal insurance would take over when the commercial coverage is terminated, and would continue until commercial insurance could be obtained on reasonable terms and conditions.

This program operates as a revolving fund, with income provided from binder fees, insurance premiums, interest from investments and claim reimbursements from other federal agencies. Fees and expenses of underwriting agents and appraisal contractors, as well as insurance claims are then paid from the fund. If reauthorized, the program is expected to operate with an annual operating loss of about $0.2 million through 1990, assuming no major outbreaks that would trigger substantial claims. These costs are largely for appraisal contractor fees. In addition, the fund is expected to receive more than $1 million annually in interest from investments.

To date, this program has not required an appropriation. During the entire period war risk insurance is effective, the federal government, as the program's administrator, is charged with regularly adjusting the premiums to cover all losses. The Maritime Administration expects that a sufficient number of ships would participate in the program so that all losses could be recovered. (In World War II, when a similar program was in effect, the insurance premiums and other credits exceeded losses by $127 million.)

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation.

The bill, as reported, will extend until June 30, 1990, the authority of the Secretary of Transportation to insure or reinsure merchant vessels against the loss or damage from war if the Secretary determines that such insurance cannot be obtained on reasonable terms or conditions from private insurance companies. It would neither increase nor decrease the amount of Federal regulation. It would have no impact on personal privacy nor change the amount of paperwork that is required.

SECTION-BY-SECTION ANALYSIS

SECTION 1

The bill consists of one section, which amends section 1214 of the Merchant Marine Act, 1936, to extend until June 30, 1990 the authority of the Secretary of Transportation to issue war risk insurance.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE MERCHANT MARINE ACT, 1936

Section 1214 of that Act

Sec. 1214. The authority of the Secretary to provide insurance and reinsurance under this title shall expire [September 30, 1984] *June 30, 1990.*

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